

1 SENATE BILL 455

2 **47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

3 INTRODUCED BY

4 Cynthia Nava

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6
7
8 FOR THE PUBLIC SCHOOL CAPITAL OUTLAY TASK FORCE

9
10 AN ACT

11 RELATING TO PUBLIC SCHOOL CAPITAL OUTLAY; REQUIRING
12 CONSTRUCTION OF SCHOOL FACILITIES TO COMPLY WITH THE STATEWIDE
13 ADEQUACY STANDARDS; REQUIRING MAINTENANCE PLANS FOR ALL PUBLIC
14 SCHOOLS; INCREASING DISTRIBUTIONS PURSUANT TO THE PUBLIC SCHOOL
15 CAPITAL IMPROVEMENTS ACT; CREATING A PROGRAM TO REPAIR OR
16 REPLACE DAMAGED ROOFS OF PUBLIC SCHOOL FACILITIES; PROVIDING
17 FOR THE ASSESSMENT OF CHARTER SCHOOL FACILITIES; EXTENDING THE
18 TIME PERIOD OF EXEMPT STATUS FOR PUBLIC SCHOOL FACILITIES
19 AUTHORITY EMPLOYEES; CHANGING CERTAIN FUNDING CRITERIA FOR
20 PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS; CHANGING THE DUTIES,
21 COMPOSITION AND TERM OF THE PUBLIC SCHOOL CAPITAL OUTLAY
22 OVERSIGHT TASK FORCE; RESTRICTING PROPERTY INSURANCE PROCEEDS;
23 PROVIDING THAT CERTAIN BOND PROCEEDS BE TRANSFERRED IMMEDIATELY
24 UPON SALE OF THE BONDS; REQUIRING THE APPLICATION OF STATE
25 CONSTRUCTION STANDARDS AND CERTAIN FIRE REGULATIONS TO PUBLIC

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1 SCHOOL FACILITIES; AUTHORIZING SHORT-TERM SUPPLEMENTAL
2 SEVERANCE TAX BONDS; MAKING APPROPRIATIONS; DECLARING AN
3 EMERGENCY.

4

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

6 Section 1. A new section of the Severance Tax Bonding
7 Act, Section 7-27-12.3 NMSA 1978, is enacted to read:

8 "7-27-12.3. [NEW MATERIAL] ADMINISTRATION OF CERTAIN BOND
9 PROCEEDS APPROPRIATED TO THE PUBLIC SCHOOL CAPITAL OUTLAY
10 FUND.--Proceeds of severance tax bonds and supplemental
11 severance tax bonds previously or hereafter issued by the state
12 board of finance that are appropriated to the public school
13 capital outlay fund for the purpose of carrying out the
14 provisions of the Public School Capital Outlay Act shall,
15 except to the extent that the proceeds are derived from any
16 bonds the interest on which is excluded from federal income
17 tax, be transferred by the state board of finance immediately
18 upon receipt to the public school capital outlay fund. All
19 money so transferred shall be administered for disbursement
20 purposes by the public school capital outlay council consistent
21 with the requirements of the Public School Capital Outlay Act."

22 Section 2. Section 22-15A-9 NMSA 1978 (being Laws 1994,
23 Chapter 96, Section 9, as amended) is amended to read:

24 "22-15A-9. EDUCATIONAL TECHNOLOGY FUND--DISTRIBUTION.--

25 A. Upon annual review and approval of a school

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1 district's educational technology plan, the bureau shall
2 determine a separate distribution from the educational
3 technology fund for each school district.

4 B. On or before July 31 of each year, the bureau
5 shall distribute money in the educational technology fund
6 directly to each school district in an amount equal to ninety
7 percent of the school district's estimated adjusted entitlement
8 calculated pursuant to Subsection C of this section. A school
9 district's unadjusted entitlement is that portion of the total
10 amount of the annual appropriation that the projected
11 membership bears to the projected membership of the state.
12 Kindergarten membership shall be calculated on a one-half full-
13 time-equivalent basis.

14 C. A school district's estimated adjusted
15 entitlement shall be calculated by the bureau using the
16 following procedure:

17 (1) a base allocation is calculated by
18 multiplying the total annual appropriation by seventy-five
19 thousandths percent;

20 (2) the estimated adjusted entitlement amount
21 for a school district whose unadjusted entitlement is at or
22 below the base allocation shall be equal to the base
23 allocation. For a school district whose unadjusted entitlement
24 is higher than the base allocation, the estimated adjusted
25 entitlement shall be calculated pursuant to Paragraphs (3)

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1 through [~~(13)~~] (6) of this subsection;

2 (3) the total projected membership in those
3 school districts that will receive the base allocation pursuant
4 to Paragraph (2) of this subsection is subtracted from the
5 total projected state membership;

6 (4) the total of the estimated adjusted
7 entitlement amounts that will be distributed to those school
8 districts receiving the base allocation pursuant to Paragraph
9 (2) of this subsection is subtracted from the total
10 appropriation;

11 (5) the projected membership for the district
12 is divided by the result calculated pursuant to Paragraph (3)
13 of this subsection; and

14 (6) the estimated adjusted entitlement amount
15 for the school district equals the number calculated pursuant
16 to Paragraph (5) of this subsection [~~is~~] multiplied by the
17 value calculated pursuant to Paragraph (4) of this subsection.

18 [~~(7) excluding appropriations made prior to~~
19 ~~January 1, 2003 and reauthorizations of previous educational~~
20 ~~technology appropriations, the total of educational technology~~
21 ~~appropriations made in the immediately preceding three fiscal~~
22 ~~years directly to, and not rejected by, the school district, is~~
23 ~~calculated. No later than June 30 of each year, the department~~
24 ~~of finance and administration shall certify to the bureau the~~
25 ~~amount of direct appropriations made to each school district~~

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1 ~~during the preceding twelve months. An appropriation made in a~~
2 ~~fiscal year shall be deemed to be accepted by a school district~~
3 ~~unless, prior to July 15 of the fiscal year following the~~
4 ~~appropriation, the district notifies the department of finance~~
5 ~~and administration and the public education department that the~~
6 ~~district is rejecting the appropriation;~~

7 ~~(8) the applicable amount for the school~~
8 ~~district calculated from Subparagraph (k), (m), (n) or (o) of~~
9 ~~Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978 is~~
10 ~~subtracted from one;~~

11 ~~(9) the value calculated pursuant to Paragraph~~
12 ~~(7) of this subsection for the school district is multiplied by~~
13 ~~the amount calculated pursuant to Paragraph (8) of this~~
14 ~~subsection for that school district;~~

15 ~~(10) the total amount of reductions for the~~
16 ~~school district made in the immediately two preceding fiscal~~
17 ~~years pursuant to Paragraph (11) of this subsection is~~
18 ~~subtracted from the amount calculated pursuant to Paragraph (9)~~
19 ~~of this subsection for that school district;~~

20 ~~(11) the amount calculated for the school~~
21 ~~district pursuant to Paragraph (10) of this subsection is~~
22 ~~subtracted from the amount calculated pursuant to Paragraph (6)~~
23 ~~of this subsection for that school district;~~

24 ~~(12) if the amount calculated for the school~~
25 ~~district pursuant to Paragraph (11) of this subsection is equal~~

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1 ~~to or less than the base allocation amount, the estimated~~
2 ~~adjusted entitlement amount for that school district is equal~~
3 ~~to the base allocation amount; and~~

4 ~~(13) if the amount calculated for the school~~
5 ~~district pursuant to Paragraph (11) of this subsection is more~~
6 ~~than the base allocation amount, the estimated adjusted~~
7 ~~entitlement amount for that school district is equal to the~~
8 ~~amount calculated pursuant to that paragraph.]~~

9 D. On or before January 30 of each year, the bureau
10 shall recompute each adjusted entitlement using the final
11 funded membership for that year and, without making any
12 additional reductions, shall allocate the balance of the annual
13 appropriation adjusting for any over- or under-projection of
14 membership.

15 E. A school district receiving funding pursuant to
16 the Technology for Education Act is responsible for the
17 purchase, distribution, use and maintenance of educational
18 technology.

19 F. As used in this section, "membership" means the
20 total enrollment of qualified students, as defined in the
21 Public School Finance Act, on the current roll of class or
22 school on a specified day. The current roll is established by
23 the addition of original entries and reentries minus
24 withdrawals. Withdrawal of students, in addition to students
25 formally withdrawn from the public school, includes students

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1 absent from the public school for as many as ten consecutive
2 school days."

3 Section 3. Section 22-20-1 NMSA 1978 (being Laws 1967,
4 Chapter 16, Section 270, as amended) is amended to read:

5 "22-20-1. SCHOOL CONSTRUCTION--APPROVAL OF THE PUBLIC
6 SCHOOL FACILITIES AUTHORITY--COMPLIANCE WITH STATEWIDE ADEQUACY
7 STANDARDS--STATE CONSTRUCTION AND FIRE STANDARDS APPLICABLE.--

8 A. Each local school board shall secure the
9 approval of the director of the public school facilities
10 authority or [~~his~~] the director's designee prior to the
11 construction or letting of contracts for construction of any
12 school building or related school structure or before reopening
13 an existing structure that was formerly used as a school
14 building but that has not been used for that purpose during the
15 previous year. A written application shall be submitted to the
16 director requesting approval of the construction, and, upon
17 receipt, the director shall forward a copy of the application
18 to the [~~state superintendent~~] secretary. The director shall
19 prescribe the form of the application, which shall include the
20 following:

- 21 (1) a statement of need;
- 22 (2) the anticipated number of students
23 affected by the construction;
- 24 (3) the estimated cost;
- 25 (4) a description of the proposed construction

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1 ~~[or structure to be built]~~ project;

2 (5) a map of the area showing existing school
3 attendance centers within a five-mile radius and any
4 obstructions to attending the attendance centers, such as ~~[but~~
5 ~~not limited to]~~ railroad tracks, rivers and limited-access
6 highways; and

7 (6) such other information as may be required
8 by the director.

9 B. The director or ~~[his]~~ the director's designee
10 shall give ~~[his]~~ approval to an application if ~~[he]~~ the
11 director or designee reasonably determines that:

12 (1) the construction will not cause an
13 unnecessary proliferation of school construction;

14 (2) the construction is needed in the school
15 district;

16 (3) the construction is feasible;

17 (4) the cost of the construction is
18 reasonable;

19 (5) the construction project:

20 (a) is in compliance with the statewide
21 adequacy standards adopted pursuant to the Public School
22 Capital Outlay Act; and

23 (b) if relevant, is appropriately
24 integrated into the school district master plan;

25 ~~[+5]~~ (6) the school district is financially

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1 able to pay for the construction; and

2 [~~(6)~~] (7) the [~~state superintendent~~] secretary
3 has certified that the construction will support the
4 educational program of the school district.

5 C. Within thirty days after the receipt of an
6 application filed pursuant to this section, the director or
7 [~~his~~] the director's designee shall in writing notify the local
8 school board making the application and the department [~~of~~
9 ~~education~~] of [~~his~~] approval or disapproval of the application.

10 D. A local school board shall not enter into a
11 contract for the construction of a public school facility,
12 including contracts funded with insurance proceeds, unless the
13 contract contains provisions requiring the construction to be
14 in compliance with the statewide adequacy standards adopted
15 pursuant to the Public School Capital Outlay Act.

16 E. Public school facilities shall be constructed
17 pursuant to state standards promulgated pursuant to the
18 Construction Industries Licensing Act and rules adopted
19 pursuant to Section 59A-52-15 NMSA 1978 for the prevention and
20 control of fires in public occupancies. Building standards
21 adopted by a municipality or county do not apply to the
22 construction of public school facilities.

23 F. As used in this section, "construction" means
24 any project for which the construction industries division of
25 the regulation and licensing department requires permitting."

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1 Section 4. Section 22-24-4 NMSA 1978 (being Laws 1975,
2 Chapter 235, Section 4, as amended) is amended to read:

3 "22-24-4. FUND CREATED--USE.--

4 A. There is created the "public school capital
5 outlay fund". Balances remaining in the fund at the end of
6 each fiscal year shall not revert.

7 B. Except as provided in Subsections G through K of
8 this section, money in the fund may be used only for capital
9 expenditures deemed by the council necessary for an adequate
10 educational program.

11 C. The council may authorize the purchase by the
12 public school facilities authority of portable classrooms to be
13 loaned to school districts to meet a temporary requirement.
14 Payment for these purchases shall be made from the fund. Title
15 and custody to the portable classrooms shall rest in the public
16 school facilities authority. The council shall authorize the
17 lending of the portable classrooms to school districts upon
18 request and upon finding that sufficient need exists.

19 Application for use or return of state-owned portable classroom
20 buildings shall be submitted by school districts to the
21 council. Expenses of maintenance of the portable classrooms
22 while in the custody of the public school facilities authority
23 shall be paid from the fund; expenses of maintenance and
24 insurance of the portable classrooms while in the custody of a
25 school district shall be the responsibility of the school

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1 district. The council may authorize the permanent disposition
2 of the portable classrooms by the public school facilities
3 authority with prior approval of the state board of finance.

4 D. Applications for assistance from the fund shall
5 be made by school districts to the council in accordance with
6 requirements of the council. The council shall require as a
7 condition of application that a school district have a current
8 five-year facilities plan, which shall include a current
9 preventive maintenance plan to which the school adheres for
10 each public school in the school district.

11 E. The council shall review all requests for
12 assistance from the fund and shall allocate funds only for
13 those capital outlay projects that meet the criteria of the
14 Public School Capital Outlay Act.

15 F. Money in the fund shall be disbursed by warrant
16 of the department of finance and administration on vouchers
17 signed by the secretary of finance and administration following
18 certification by the council that an application has been
19 approved or an expenditure has been ordered by a court pursuant
20 to Section [~~22-24-5.5~~] 22-24-5.4 NMSA 1978. At the discretion
21 of the council, money for a project shall be distributed as
22 follows:

23 (1) up to ten percent of the portion of the
24 project cost funded with distributions from the fund or five
25 percent of the total project cost, whichever is greater, may be

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1 paid to the school district before work commences with the
2 balance of the grant award made on a cost-reimbursement basis;
3 or

4 (2) the council may authorize payments
5 directly to the contractor.

6 G. Balances in the fund may be annually
7 appropriated for the core administrative functions of the
8 public school facilities authority pursuant to the Public
9 School Capital Outlay Act and, in addition, balances in the
10 fund may be expended by the public school facilities authority,
11 upon approval of the council, for project management expenses;
12 provided that:

13 (1) the total annual expenditures from the
14 fund pursuant to this subsection shall not exceed five percent
15 of the average annual grant assistance authorized from the fund
16 during the three previous fiscal years; and

17 (2) any unexpended or unencumbered balance
18 remaining at the end of a fiscal year from the expenditures
19 authorized in this subsection shall revert to the fund.

20 H. Up to one million two hundred fifty thousand
21 dollars (\$1,250,000) of the balances of the fund may be
22 expended in fiscal years 2003 and 2004 by the council for the
23 purpose of updating and refining the statewide assessment study
24 required by Section 22-24-5 NMSA 1978 and for the training of
25 state and local officials on the use of the database and other

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1 data-management-related issues identified by the council.

2 ~~[I. Of the appropriation made to the fund by~~
3 ~~Subsection D of Section 15 of Chapter 338 of Laws 2001 for the~~
4 ~~purpose of correcting outstanding deficiencies, one million one~~
5 ~~hundred thousand dollars (\$1,100,000) is appropriated to the~~
6 ~~council for expenditure in fiscal years 2004 through 2007 for~~
7 ~~the core administrative functions of the deficiencies~~
8 ~~corrections program. Any unexpended or unencumbered balance~~
9 ~~remaining at the end of fiscal year 2007 shall revert to the~~
10 ~~fund.~~

11 ~~J. Up to seven hundred thousand dollars (\$700,000)~~
12 ~~of the balances of the fund may be expended by the council in~~
13 ~~fiscal year 2004 for the core administrative functions of the~~
14 ~~public school facilities authority.]~~

15 I. Up to thirty million dollars (\$30,000,000) of
16 the fund may be allocated annually by the council in fiscal
17 years 2006 and 2007 for a roof repair and replacement
18 initiative with projects to be identified by the council
19 pursuant to Section 22-24-4.3 NMSA 1978; provided that all
20 money allocated pursuant to this subsection shall be expended
21 prior to September 1, 2008.

22 ~~[K.]~~ J. Up to four million dollars (\$4,000,000)
23 from the fund may be expended annually by the council in fiscal
24 years 2005 through 2009 for grants to school districts for the
25 purpose of making lease payments for classroom facilities,

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1 including facilities leased by charter schools. The grants
2 shall be made upon application by the school districts and
3 pursuant to rules adopted by the council, ~~and~~ provided that,
4 an application on behalf of a charter school shall be made by
5 the school district but, if the school district fails to make
6 an application on behalf of a charter school, the charter
7 school may submit its own application. The following criteria
8 shall apply to the grants:

9 (1) the amount of a grant to a school district
10 shall not exceed:

11 (a) the actual annual lease payments
12 owed for leasing classroom space for schools, including charter
13 schools, in the district; or

14 (b) three hundred dollars (\$300) for
15 fiscal year 2005 and six hundred dollars (\$600) for fiscal
16 years 2006 through 2009 multiplied by the number of MEM using
17 the leased classroom facilities; provided that, if the total
18 grants awarded pursuant to this paragraph would exceed the
19 total annual amount available, the rate specified in this
20 subparagraph shall be reduced proportionately;

21 (2) a grant received for the lease payments of
22 a charter school may be used by that charter school as a state
23 match necessary to obtain federal grants pursuant to the
24 federal No Child Left Behind Act of 2001;

25 (3) at the end of each fiscal year, any

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1 unexpended or unencumbered balance of the appropriation shall
2 revert to the fund; and

3 (4) as used in this subsection, "MEM" means:

4 (a) the ~~[total]~~ average full-time-
5 equivalent enrollment using leased classroom facilities ~~[in the~~
6 ~~final funded]~~ on the fortieth, eightieth and one hundred
7 twentieth days of the prior school year; or

8 (b) in the case of an approved charter
9 school that has not commenced classroom instruction, the
10 estimated full-time equivalent enrollment that will use leased
11 classroom facilities in the first year of instruction, as shown
12 in the approved charter school application.

13 K. Up to one percent of the average grant
14 assistance authorized from the fund during the three previous
15 fiscal years may be expended in each fiscal year by the public
16 school facilities authority to reimburse the state fire marshal
17 and the construction industries division of the regulation and
18 licensing department for expenditures made to permit and
19 inspect projects funded in whole or in part under the Public
20 School Capital Outlay Act. The authority shall enter into
21 contracts with the state fire marshal and the construction
22 industries division to carry out the provisions of this
23 subsection."

24 Section 5. A new section of the Public School Capital
25 Outlay Act, Section 22-24-4.3 NMSA 1978, is enacted to read:

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1 "22-24-4.3. [NEW MATERIAL] ROOF REPAIR AND REPLACEMENT
2 INITIATIVE.--

3 A. A school district, desiring a grant award
4 pursuant to this section, shall submit an application to the
5 council. The application shall include an assessment of the
6 roofs on district school buildings that, in the opinion of the
7 school district, create a threat of significant property
8 damage.

9 B. The public school facilities authority shall
10 verify the assessment made by the school district and rank the
11 application with similar applications pursuant to a methodology
12 adopted by the council.

13 C. After a public hearing and to the extent that
14 money is available in the fund for such purposes, the council
15 shall approve roof repair or replacement projects on the
16 established priority basis; provided that no project shall be
17 approved unless the council determines that the school district
18 is willing and able to pay the portion of the total cost of the
19 project that is not funded with grant assistance from the fund.
20 In order to pay its portion of the total project cost, a school
21 district may use state distributions made to the school
22 district pursuant to the Public School Capital Improvements Act
23 or, if within the scope of the authorizing resolution, proceeds
24 of the property tax imposed pursuant to that act.

25 D. The state share of the cost of an approved

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1 project shall be calculated pursuant to the methodology in
2 Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978.

3 E. A grant made pursuant to this section shall be
4 expended by the school district prior to September 1, 2008."

5 Section 6. Section 22-24-5 NMSA 1978 (being Laws 1975,
6 Chapter 235, Section 5, as amended) is amended to read:

7 "22-24-5. PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS--
8 APPLICATION--GRANT ASSISTANCE.--

9 A. Applications for grant assistance, the approval
10 of applications, the prioritization of projects and grant
11 awards shall be conducted pursuant to the provisions of this
12 section; provided, however, that the order of priority in the
13 [~~three~~] two years beginning July 1, 2004 shall first reflect
14 those specific projects that were partially funded by the
15 council in September 2003 but are not as yet completed,
16 excluding any expansion of the scope of those projects and
17 contingent upon maintenance of the required local support. In
18 that transition period, such projects shall be funded
19 regardless of any deviation from the statewide adequacy
20 standards; provided that the amount of the award received shall
21 not exceed the amount necessary to meet the statewide adequacy
22 standards, including projected enrollment growth.

23 B. Except as provided in Subsection A of this
24 section and in [~~Section 22-24-5.5~~] Sections 22-24-4.3 and
25 22-24-5.4 NMSA 1978, the following provisions govern grant

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1 assistance from the fund for a public school capital outlay
2 project not wholly funded pursuant to Section 22-24-4.1 NMSA
3 1978:

4 (1) all school districts are eligible to apply
5 for funding from the fund, regardless of percentage of
6 indebtedness;

7 (2) priorities for funding shall be determined
8 by using the statewide adequacy standards developed pursuant to
9 Subsection C of this section; provided that:

10 (a) the council shall apply the
11 standards to charter schools to the same extent that they are
12 applied to other public schools; and

13 (b) in an emergency in which the health
14 or safety of students or school personnel is at immediate risk
15 or in which there is a threat of significant property damage,
16 the council may award grant assistance for a project using
17 criteria other than the statewide adequacy standards;

18 (3) the council shall establish criteria to be
19 used in public school capital outlay projects that receive
20 grant assistance pursuant to the Public School Capital Outlay
21 Act. In establishing the criteria, the council shall consider:

22 (a) the feasibility of using design,
23 build and finance arrangements for public school capital outlay
24 projects;

25 (b) the potential use of more durable

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1 construction materials that may reduce long-term operating
2 costs; and

3 (c) any other financing or construction
4 concept that may maximize the dollar effect of the state grant
5 assistance;

6 (4) no more than ten percent of the combined
7 total of grants in a funding cycle shall be used for
8 retrofitting existing facilities for technology infrastructure;

9 (5) except as provided in Paragraph (6) or (8)
10 of this subsection, the state share of a project approved and
11 ranked by the council shall be funded within available
12 resources pursuant to the provisions of this paragraph. No
13 later than May 1 of each calendar year, a value shall be
14 calculated for each school district in accordance with the
15 following procedure:

16 (a) the final prior year net taxable
17 value for a school district divided by the MEM for that school
18 district is calculated for each school district;

19 (b) the final prior year net taxable
20 value for the whole state divided by the MEM for the state is
21 calculated;

22 (c) excluding any school district for
23 which the result calculated pursuant to Subparagraph (a) of
24 this paragraph is more than twice the result calculated
25 pursuant to Subparagraph (b) of this paragraph, the results

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1 calculated pursuant to Subparagraph (a) of this paragraph are
2 listed from highest to lowest;

3 (d) the lowest value listed pursuant to
4 Subparagraph (c) of this paragraph is subtracted from the
5 highest value listed pursuant to that subparagraph;

6 (e) the value calculated pursuant to
7 Subparagraph (a) of this paragraph for the subject school
8 district is subtracted from the highest value listed in
9 Subparagraph (c) of this paragraph;

10 (f) the result calculated pursuant to
11 Subparagraph (e) of this paragraph is divided by the result
12 calculated pursuant to Subparagraph (d) of this paragraph;

13 (g) the sum of the property tax mill
14 levies for the prior tax year imposed by each school district
15 on residential property pursuant to Chapter 22, Article 18 NMSA
16 1978, the Public School Capital Improvements Act, the Public
17 School Buildings Act, the Education Technology Equipment Act
18 and Paragraph (2) of Subsection B of Section 7-37-7 NMSA 1978
19 is calculated for each school district;

20 (h) the lowest value calculated pursuant
21 to Subparagraph (g) of this paragraph is subtracted from the
22 highest value calculated pursuant to that subparagraph;

23 (i) the lowest value calculated pursuant
24 to Subparagraph (g) of this paragraph is subtracted from the
25 value calculated pursuant to that subparagraph for the subject

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1 school district;

2 (j) the value calculated pursuant to
3 Subparagraph (i) of this paragraph is divided by the value
4 calculated pursuant to Subparagraph (h) of this paragraph;

5 (k) if the value calculated for a
6 subject school district pursuant to Subparagraph (j) of this
7 paragraph is less than five-tenths, then, except as provided in
8 Subparagraph (n) or (o) of this paragraph, the value
9 ~~[calculated]~~ for that school district equals the value
10 calculated pursuant to Subparagraph (f) of this paragraph
11 ~~[equals the portion of the approved project to be funded from~~
12 ~~the fund];~~

13 (l) if the value calculated for a
14 subject school district pursuant to Subparagraph (j) of this
15 paragraph is five-tenths or greater, then that value is
16 multiplied by five-hundredths;

17 (m) if the value calculated for a
18 subject school district pursuant to Subparagraph (j) of this
19 paragraph is five-tenths or greater, then the value calculated
20 pursuant to Subparagraph (l) of this paragraph is added to the
21 value calculated pursuant to Subparagraph (f) of this
22 paragraph. Except as provided in Subparagraph (n) or (o) of
23 this paragraph, the sum equals the ~~[portion of the approved~~
24 ~~project to be funded from the fund]~~ value for that school
25 district;

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1 (n) in those instances in which the
2 calculation pursuant to Subparagraph (k) or (m) of this
3 paragraph yields a value less than one-tenth, one-tenth shall
4 be used as the ~~[portion of the approved project to be funded~~
5 ~~from the fund]~~ value for the subject school district;

6 (o) in those instances in which the
7 calculation pursuant to Subparagraph (k) or (m) of this
8 paragraph yields a value greater than one, one shall be used as
9 the ~~[portion of the approved project to be funded from the~~
10 ~~fund]~~ value for the subject school district;

11 (p) except as reduced pursuant to
12 Paragraph (6) of this subsection, the amount to be distributed
13 from the fund for an approved project: ~~[shall equal the value~~
14 ~~for the subject school district derived from Subparagraph (k),~~
15 ~~(m), (n) or (o) of this paragraph multiplied by the total~~
16 ~~project cost]~~ 1) in calendar year 2005, shall equal the total
17 project cost multiplied by a fraction the numerator of which is
18 the value calculated for the subject school district in 2005
19 plus the value calculated for that district in 2004 and the
20 denominator of which is two; and 2) in calendar year 2006 and
21 each subsequent calendar year, shall equal the total project
22 cost multiplied by a fraction the numerator of which is the
23 value calculated for the subject school district in the current
24 year plus the value calculated for that school district in each
25 of the two preceding years and the denominator of which is

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1 three; and

2 (q) as used in this paragraph: 1) "MEM"
3 means the ~~[total]~~ average full-time-equivalent enrollment of
4 students attending public school in a school district ~~[in the~~
5 ~~final funded]~~ on the fortieth, eightieth and one hundred
6 twentieth days of the prior school year; and 2) "total project
7 cost" means the total amount necessary to complete the public
8 school capital outlay project less any insurance reimbursement
9 received by the school district for the project;

10 (6) the amount calculated pursuant to
11 Subparagraph (p) of Paragraph (5) of this subsection shall be
12 reduced by the following procedure:

13 (a) the total of all legislative
14 appropriations made after January 1, 2003 directly to, and not
15 rejected by, the subject school district for nonoperating
16 purposes, excluding educational technology appropriations made
17 prior to January 1, 2005 and reauthorizations of appropriations
18 previously made to the subject school district, is calculated;
19 provided that an appropriation made in a fiscal year shall be
20 deemed to be accepted by a school district unless, prior to
21 ~~[July 15 of the fiscal year following the appropriation]~~ June 1
22 of that fiscal year, the school district notifies the
23 department of finance and administration and the public
24 education department that the district is rejecting the
25 appropriation; provided further that the total shall be

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1 increased by an amount, certified to the council by the
2 department, equal to the educational technology appropriations
3 made to the subject school district on or after January 1, 2003
4 and prior to January 1, 2005 and not previously used to offset
5 distributions pursuant to the Technology for Education Act;

6 (b) the applicable [~~amount for the~~
7 ~~subject school district calculated from Subparagraph (k), (m),~~
8 ~~(n) or (o)~~] fraction used for the subject school district and
9 the current calendar year for the calculation in Subparagraph
10 (p) of Paragraph (5) of this subsection is subtracted from one;

11 (c) the value calculated pursuant to
12 Subparagraph (a) of this paragraph for the subject school
13 district is multiplied by the amount calculated pursuant to
14 Subparagraph (b) of this paragraph for that school district;

15 (d) the total amount of reductions for
16 the subject school district previously made pursuant to
17 Subparagraph (e) of this paragraph for other approved public
18 school capital outlay projects is subtracted from the amount
19 calculated pursuant to Subparagraph (c) of this paragraph; and

20 (e) the amount calculated pursuant to
21 Subparagraph (p) of Paragraph (5) of this subsection shall be
22 reduced by the amount calculated pursuant to Subparagraph (d)
23 of this paragraph;

24 (7) as used in Paragraphs (5) and (6) of this
25 subsection, "subject school district" means the school district

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1 that has submitted the application for funding and in which the
2 approved public school capital outlay project will be located;

3 (8) in those instances in which a school
4 district has used all of its local resources, the council may
5 fund up to the total amount of a project, provided that, in
6 deciding if a school district has used all of its local
7 resources, the council shall consider whether:

8 (a) the school district has insufficient
9 bonding capacity over the next four years to provide the local
10 match necessary to complete the project and, for all
11 educational purposes, has a property tax rate of at least ten
12 dollars (\$10.00) on each one thousand dollars (\$1,000) of
13 taxable value, as measured by the sum of all rates imposed by
14 resolution of the local school board plus rates set to pay
15 interest and principal on outstanding school district general
16 obligation bonds; or

17 (b) the school district: 1) has fewer
18 than an average of eight hundred full-time-equivalent students
19 on the fortieth, eightieth and one hundred twentieth days of
20 the prior school year; 2) has at least seventy percent of its
21 students eligible for free or reduced fee lunch; 3) share of
22 the total project cost, as calculated pursuant to provisions of
23 this section, would be greater than fifty percent; and 4) for
24 all educational purposes, has a property tax rate of at least
25 seven dollars (\$7.00) on each one thousand dollars (\$1,000) of

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1 taxable value, as measured by the sum of all rates imposed by
2 resolution of the local school board plus rates set to pay
3 interest and principal on outstanding school district general
4 obligation bonds; and

5 (9) no application for grant assistance from
6 the fund shall be approved unless the council determines that:

7 (a) the public school capital outlay
8 project is needed and included in the school district's
9 five-year facilities plan among its top priorities;

10 (b) the school district has used its
11 capital resources in a prudent manner;

12 (c) the school district has provided
13 insurance for buildings of the school district in accordance
14 with the provisions of Section 13-5-3 NMSA 1978;

15 (d) the school district has submitted a
16 five-year facilities plan that includes: 1) enrollment
17 projections; 2) a current preventive maintenance plan that has
18 been approved by the council pursuant to Section 22-24-5.3 NMSA
19 1978 and that is followed by each public school in the
20 district; 3) the capital needs of charter schools located in
21 the school district; and [3)] 4) projections for the facilities
22 needed in order to maintain a full-day kindergarten program;

23 (e) the school district is willing and
24 able to pay any portion of the total cost of the public school
25 capital outlay project that, according to Paragraph (5), (6) or

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1 (8) of this subsection, is not funded with grant assistance
2 from the fund; provided that school district funds used for a
3 project that was initiated after September 1, 2002 when the
4 statewide adequacy standards were adopted, but before September
5 1, 2004 when the standards were first used as the basis for
6 determining the state and school district share of a project,
7 may be applied to the school district portion required for that
8 project;

9 (f) the application includes the capital
10 needs of any charter schools located in the school district or
11 the school district has shown that the facilities of the
12 charter schools [~~in the district meet the statewide adequacy~~
13 ~~standards~~] have a smaller deviation from the statewide adequacy
14 standards than other district facilities included in the
15 application; and

16 (g) the school district has agreed, in
17 writing, to comply with any reporting requirements or
18 conditions imposed by the council pursuant to Section 22-24-5.1
19 NMSA 1978.

20 C. After consulting with the public school capital
21 outlay task force and other experts, the council shall
22 regularly review and update statewide adequacy standards
23 applicable to all school districts. The standards shall
24 establish the acceptable level for the physical condition and
25 capacity of buildings, the educational suitability of

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1 facilities and the need for technological infrastructure.
2 Except as otherwise provided in the Public School Capital
3 Outlay Act, the amount of outstanding deviation from the
4 standards shall be used by the council in evaluating and
5 prioritizing public school capital outlay projects.

6 D. It is the intent of the legislature that grant
7 assistance made pursuant to this section [~~allow~~] allows every
8 school district to meet the standards developed pursuant to
9 Subsection C of this section; provided, however, that nothing
10 in the Public School Capital Outlay Act or the development of
11 standards pursuant to that act prohibits a school district from
12 using local funds to exceed the statewide adequacy standards.

13 E. Upon request, the council shall work with, and
14 provide assistance and information to, the public school
15 capital outlay oversight task force.

16 F. The council may establish committees or task
17 forces, not necessarily consisting of council members, and may
18 use the committees or task forces, as well as existing agencies
19 or organizations, to conduct studies, conduct surveys, submit
20 recommendations or otherwise contribute expertise from the
21 public schools, programs, interest groups and segments of
22 society most concerned with a particular aspect of the
23 council's work.

24 G. Upon the recommendation of the public school
25 facilities authority, the council shall develop building

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1 standards for public school facilities and shall promulgate
2 other such rules as are necessary to carry out the provisions
3 of the Public School Capital Outlay Act.

4 H. No later than December 15 of each year, the
5 council shall prepare a report summarizing its activities
6 during the previous fiscal year. The report shall describe in
7 detail all projects funded, the progress of projects previously
8 funded but not completed, the criteria used to prioritize and
9 fund projects and all other council actions. The report shall
10 be submitted to the public education commission, the governor,
11 the legislative finance committee, the legislative education
12 study committee and the legislature."

13 Section 7. Section 22-24-5.3 NMSA 1978 (being Laws 2003,
14 Chapter 147, Section 5) is amended to read:

15 "22-24-5.3. PREVENTIVE MAINTENANCE PLANS--GUIDELINES--
16 APPROVAL.--

17 A. The council shall adopt guidelines that will
18 assist school districts in the development and implementation
19 of preventive maintenance plans. In developing the guidelines,
20 the council shall ensure that they are not overly complex, that
21 they are user-friendly and that they take into account the
22 geographic and size variations of the districts throughout the
23 state. The guidelines shall include the major requirements
24 for:

25 (1) establishing and implementing a preventive

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1 maintenance plan;

2 (2) necessary budgets, personnel and staff
3 support;

4 (3) staff training; and

5 (4) evaluation and auditing.

6 B. The council shall develop, implement and
7 maintain a uniform web-based facility information management
8 system. Within available appropriations, the council shall
9 develop a schedule and procedure for phasing all school
10 districts into the system, including those school districts not
11 applying for grant assistance pursuant to the Public School
12 Capital Outlay Act. The facility information management system
13 shall:

14 (1) provide a centralized database of
15 maintenance activities to allow for monitoring, supporting and
16 evaluating school-level and districtwide maintenance efforts;

17 (2) provide comprehensive maintenance request
18 and expenditure information to the school districts and the
19 council; and

20 (3) facilitate training of facilities
21 maintenance and management personnel.

22 [~~B.~~] C. To the extent resources are available, the
23 council shall provide assistance to districts in developing and
24 implementing a preventive maintenance plan.

25 [~~G.~~] D. For project allocation cycles beginning

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1 after September 1, 2003, a school district shall not be
2 eligible for funding pursuant to Section 22-24-5 NMSA 1978
3 unless:

4 (1) the school district has a preventive
5 maintenance plan that has been approved by the council; and

6 (2) if applicable, the school district is
7 participating in the implementation of the facility information
8 management system.

9 ~~[D-]~~ E. As used in this section, "preventive
10 maintenance" means the regularly scheduled repair and
11 maintenance needed to keep a building component operating at
12 peak efficiency and to extend its useful life. "Preventive
13 maintenance" includes scheduled activities intended to prevent
14 breakdowns and premature failures, including periodic
15 inspections, lubrication, calibrations and replacement of
16 expendable components of equipment."

17 Section 8. Section 22-24-7 NMSA 1978 (being Laws 2001,
18 Chapter 338, Section 12, as amended) is amended to read:

19 "22-24-7. ~~[TEMPORARY PROVISION]~~ PUBLIC SCHOOL CAPITAL
20 OUTLAY OVERSIGHT TASK FORCE--CREATION--STAFF.--

21 A. The "public school capital outlay oversight task
22 force" is created. The task force consists of [~~twenty~~] twenty-
23 one members as follows:

24 [~~(1) the dean of the university of New Mexico~~
25 ~~school of law or the dean's designee;~~

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1 ~~(2)~~ (1) the secretary of finance and
2 administration or the secretary's designee;
3 ~~(3)~~ (2) the secretary of public education or
4 the secretary's designee;
5 ~~(4)~~ (3) the state investment officer or the
6 state investment officer's designee;
7 (4) the speaker of the house of
8 representatives or the speaker's designee;
9 (5) the president pro tempore of the senate or
10 the president pro tempore's designee;
11 ~~(5)~~ (6) the chairmen of the house
12 appropriations and finance committee, the senate finance
13 committee, the senate education committee and the house
14 education committee or their designees;
15 ~~(6)~~ (7) a minority party member of the house
16 of representatives, appointed by the New Mexico legislative
17 council;
18 ~~(7)~~ (8) a minority party member of the
19 senate, appointed by the New Mexico legislative council;
20 ~~(8)~~ (9) two public members who have
21 expertise in education and finance appointed by the speaker of
22 the house of representatives;
23 ~~(9)~~ (10) two public members who have
24 expertise in education and finance appointed by the president
25 pro tempore of the senate;

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1 [~~(10)~~] (11) three public members who have
2 expertise in education and finance appointed by the governor;
3 and

4 [~~(11)~~] (12) three superintendents of school
5 districts or their designees, two of whom are from school
6 districts that receive grants from the federal government as
7 assistance to areas affected by federal activity authorized in
8 accordance with Title 20 of the United States Code, appointed
9 by the New Mexico legislative council in consultation with the
10 governor.

11 B. The chair of the public school capital outlay
12 oversight task force shall be elected by the task force. The
13 task force shall meet at the call of the chair, but no more
14 than four times per calendar year.

15 C. ~~[Members of the task force shall serve from the~~
16 ~~time of their appointment through June 30, 2005. On July 1,~~
17 ~~2005, the task force is terminated.] Non-ex-officio members of~~
18 ~~the task force shall serve at the pleasure of their appointing~~
19 ~~authorities.~~

20 D. The public members of the public school capital
21 outlay oversight task force shall receive per diem and mileage
22 pursuant to the Per Diem and Mileage Act.

23 E. The legislative council service, with assistance
24 from the public school facilities authority, the department of
25 finance and administration, the public education department,

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1 the legislative education study committee and the legislative
2 finance committee, shall provide staff for the public school
3 capital outlay oversight task force."

4 Section 9. Section 22-24-8 NMSA 1978 (being Laws 2001,
5 Chapter 338, Section 13, as amended) is amended to read:

6 "22-24-8. [~~TEMPORARY PROVISION~~] PUBLIC SCHOOL CAPITAL
7 OUTLAY OVERSIGHT TASK FORCE--DUTIES.--The public school capital
8 outlay oversight task force shall:

9 A. monitor the overall progress of bringing all
10 public schools up to the statewide adequacy standards developed
11 pursuant to the Public School Capital Outlay Act;

12 [~~A. study and evaluate~~] B. monitor the progress
13 and effectiveness of programs administered pursuant to the
14 Public School Capital Outlay Act and the Public School Capital
15 Improvements Act;

16 [~~B. review the condition index and the methodology~~
17 ~~used for ranking projects;~~]

18 C. [~~evaluate~~] monitor the existing permanent
19 revenue streams [~~as an~~] to ensure that they remain adequate
20 long-term funding [~~source~~] sources for public school capital
21 outlay projects;

22 D. [~~monitor and assist~~] oversee the work of the
23 public school capital outlay council and the public school
24 facilities authority as they perform functions pursuant to the
25 Public School Capital Outlay Act, particularly as they

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1 implement the statewide-based process for making grant awards;
2 [~~and~~]

3 E. appoint an advisory committee to study the
4 feasibility of implementing a long-range planning process that
5 will facilitate the interaction between charter schools and
6 their school districts on issues relating to facility needs;
7 and

8 [~~E.~~] F. before the beginning of [~~the first~~] each
9 regular session of the [~~forty-seventh~~] legislature, report the
10 results of its analyses [~~findings~~] and oversight and any
11 recommendations to the governor and the legislature."

12 Section 10. Section 22-24-9 NMSA 1978 (being Laws 2003,
13 Chapter 147, Section 1, as amended) is amended to read:

14 "22-24-9. PUBLIC SCHOOL FACILITIES AUTHORITY--
15 CREATION--POWERS AND DUTIES.--

16 A. The "public school facilities authority" is
17 created under the council. The authority shall be headed by a
18 director, selected by the council, who shall be versed in
19 construction, architecture or project management. The director
20 may hire no more than two deputies with the approval of the
21 council, and, subject to budgetary constraints set out in
22 Subsection G of Section 22-24-4 NMSA 1978, shall employ or
23 contract with such technical and administrative personnel as
24 are necessary to carry out the provisions of this section. The
25 director and deputies shall be exempt from the provisions of

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1 the Personnel Act; after July 1, [2005] 2006, all other
2 employees of the authority shall be subject to the provisions
3 of the Personnel Act.

4 B. The authority shall:

5 (1) serve as staff to the council;

6 (2) as directed by the council, provide those
7 assistance and oversight functions required of the council by
8 Section 22-24-5.1 NMSA 1978;

9 (3) assist school districts with:

10 (a) the development and implementation
11 of five-year facilities plans and preventive maintenance plans;

12 (b) procurement of architectural and
13 engineering services;

14 (c) management and oversight of
15 construction activities; and

16 (d) training programs;

17 (4) conduct ongoing reviews of five-year
18 facilities plans, preventive maintenance plans and performance
19 pursuant to those plans;

20 (5) as directed by the council, assist school
21 districts in analyzing and assessing their space utilization
22 options;

23 (6) ensure that public school capital outlay
24 projects are in compliance with applicable building codes;

25 (7) conduct on-site inspections as necessary

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1 to ensure that the construction specifications are being met
2 and periodically inspect all of the documents related to
3 projects;

4 (8) require the use of standardized
5 construction documents and the use of a standardized process
6 for change orders;

7 (9) have access to the premises of a project
8 and any documentation relating to the project;

9 (10) after consulting with the department,
10 recommend building standards for public school facilities to
11 the council and ensure compliance with building standards
12 adopted by the council;

13 (11) maintain a database of the condition of
14 school facilities and maintenance schedules; and

15 (12) ensure that outstanding deficiencies are
16 corrected pursuant to Section 22-24-4.1 NMSA 1978. In the
17 performance of this duty, the authority:

18 (a) shall work with school districts to
19 validate the assessment of the outstanding deficiencies and the
20 projected costs to correct the deficiencies;

21 (b) shall work with school districts to
22 provide direct oversight of the management and construction of
23 the projects that will correct the outstanding deficiencies;

24 (c) shall oversee all aspects of the
25 contracts entered into by the council to correct the

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1 outstanding deficiencies;

2 (d) may conduct on-site inspections
3 while the deficiencies correction work is being done to ensure
4 that the construction specifications are being met and may
5 periodically inspect all of the documents relating to the
6 projects;

7 (e) may require the use of standardized
8 construction documents and the use of a standardized process
9 for change orders;

10 (f) may access the premises of a project
11 and any documentation relating to the project; and

12 (g) shall maintain, track and account
13 for deficiency correction projects separately from other
14 capital outlay projects funded pursuant to the Public School
15 Capital Outlay Act.

16 C. All actions taken by the authority shall be
17 consistent with educational programs conducted pursuant to the
18 Public School Code. In the event of any potential or perceived
19 conflict between a proposed action of the authority and an
20 educational program, the authority shall consult with the
21 secretary [~~of public education~~].

22 D. A school district, aggrieved by a decision or
23 recommendation of the authority, may appeal the matter to the
24 council by filing a notice of appeal with the council within
25 thirty days of the authority's decision or recommendation.

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1 Upon filing of the notice:

2 (1) the decision or recommendation of the
3 authority shall be suspended until the matter is decided by the
4 council;

5 (2) the council shall hear the matter at its
6 next regularly scheduled hearing or at a special hearing called
7 by the chair for that purpose;

8 (3) at the hearing, the school district, the
9 authority and other interested parties may make informal
10 presentations to the council; and

11 (4) the council shall finally decide the
12 matter within ten days after the hearing."

13 Section 11. A new section of the Public School Capital
14 Outlay Act is enacted to read:

15 "[NEW MATERIAL] PUBLIC FACILITIES TO BE USED BY CHARTER
16 SCHOOLS--ASSESSMENT.--

17 A. Prior to the occupancy of a public facility by a
18 charter school, the charter school shall notify the council of
19 the intended use, together with such other information as
20 required by rule of the council.

21 B. Within sixty days of the notification to the
22 council, the public school facilities authority shall assess
23 the facility in order to determine the extent of compliance
24 with the statewide adequacy standards and the amount of
25 outstanding deviation from those standards. The results of the

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1 assessment shall be submitted to the charter school, the school
2 district in which the charter school is located and the
3 council.

4 C. Once assessed pursuant to Subsection B of this
5 section, the facility shall be prioritized and eligible for
6 grants pursuant to the Public School Capital Outlay Act in the
7 same manner as all other public schools in the state.

8 D. As used in this section, "public facility" means
9 a building owned by the charter school, the school district,
10 the state, an institution of the state, another political
11 subdivision of the state, the federal government or a tribal
12 government."

13 Section 12. Section 22-18-1 NMSA 1978 (being Laws 1967,
14 Chapter 16, Section 228, as amended) is amended to read:

15 "22-18-1. GENERAL OBLIGATION BONDS--AUTHORITY TO
16 ISSUE.--Subject to the provisions of Article 9, Section 11 of
17 the constitution of New Mexico and Sections 6-15-1 and 6-15-2
18 NMSA 1978, a school district may issue general obligation bonds
19 for the purpose of erecting, remodeling, making additions to
20 and furnishing school buildings, purchasing or improving school
21 grounds, purchasing computer software and hardware for student
22 use in public schools, providing matching funds for capital
23 outlay projects funded pursuant to the Public School Capital
24 Outlay Act or any combination of these purposes. The bonds
25 shall be fully negotiable and constitute negotiable instruments

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1 within the meaning and for all purposes of the Uniform
2 Commercial Code."

3 Section 13. Section 22-25-9 NMSA 1978 (being Laws 1975
4 (S.S.), Chapter 5, Section 9, as amended) is amended to read:

5 "22-25-9. STATE DISTRIBUTION TO SCHOOL DISTRICT IMPOSING
6 TAX UNDER CERTAIN CIRCUMSTANCES.--

7 A. Except as provided in Subsection C of this
8 section, the secretary [~~of public education~~] shall distribute
9 to any school district that has imposed a tax under the Public
10 School Capital Improvements Act an amount from the public
11 school capital improvements fund that is equal to the amount by
12 which the revenue estimated to be received from the imposed
13 tax, at the rate certified by the department of finance and
14 administration in accordance with Section 22-25-7 NMSA 1978,
15 assuming a one hundred percent collection rate, is less than an
16 amount calculated by multiplying the school district's first
17 forty days' total program units by the amount specified in
18 Subsection B of this section and further multiplying the
19 product obtained by the tax rate approved by the qualified
20 electors in the most recent election on the question of
21 imposing a tax under the Public School Capital Improvements
22 Act. The distribution shall be made each year that the tax is
23 imposed in accordance with Section 22-25-7 NMSA 1978; provided
24 that no state distribution from the public school capital
25 improvements fund may be used for capital improvements to any

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1 administration building of a school district. In the event
2 that sufficient funds are not available in the public school
3 capital improvements fund to make the state distribution
4 provided for in this section, the dollar per program unit
5 figure shall be reduced as necessary.

6 B. In calculating the state distribution pursuant
7 to Subsection A of this section, the following amounts shall be
8 used:

9 (1) the amount calculated pursuant to
10 Subsection D of this subsection per program unit; and

11 (2) for fiscal year 2006 and thereafter, an
12 additional amount certified to the secretary [~~of public~~
13 ~~education~~] by the public school capital outlay council. No
14 later than June 1, 2005 and each June 1 thereafter, the council
15 shall determine the amount needed in the next fiscal year for
16 public school capital outlay projects pursuant to the Public
17 School Capital Outlay Act and the amount of revenue, from all
18 sources, available for the projects. If, in the sole
19 discretion of the council, the amount available exceeds the
20 amount needed, the council may certify an additional amount
21 pursuant to this paragraph; provided that the sum of the amount
22 calculated pursuant to this paragraph plus the amount in
23 Paragraph (1) of this subsection shall not result in a total
24 statewide distribution that, in the opinion of the council,
25 exceeds one-half of the total revenue estimated to be received

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1 from taxes imposed pursuant to the Public School Capital
2 Improvements Act.

3 C. For fiscal year 2004 and thereafter,
4 notwithstanding the amount calculated to be distributed
5 pursuant to Subsections A and B of this section, a school
6 district, the voters of which have approved a tax pursuant to
7 Section 22-25-3 NMSA 1978, shall not receive a distribution
8 less than the amount calculated pursuant to Subsection E of
9 this section, multiplied by the school district's first forty
10 days' total program units and further multiplying the product
11 obtained by the approved tax rate.

12 D. For purposes of calculating the distribution
13 pursuant to Subsection B of this section, the amount used in
14 Paragraph (1) of that subsection shall equal fifty dollars
15 (\$50.00) through fiscal year 2005, sixty dollars (\$60.00) in
16 fiscal year 2006 and in each subsequent fiscal year shall equal
17 the amount for the previous fiscal year adjusted by the
18 percentage increase between the next preceding calendar year
19 and the preceding calendar year of the consumer price index for
20 the United States, all items, as published by the United States
21 department of labor.

22 E. For purposes of calculating the minimum
23 distribution pursuant to Subsection C of this section, the
24 amount used in that subsection shall equal five dollars (\$5.00)
25 through fiscal year 2005 and in each subsequent fiscal year

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1 shall equal the amount for the previous fiscal year adjusted by
2 the percentage increase between the next preceding calendar
3 year and the preceding calendar year of the consumer price
4 index for the United States, all items, as published by the
5 United States department of labor.

6 F. In expending distributions made pursuant to this
7 section, school districts shall give priority to maintenance
8 projects. In addition, distributions made pursuant to this
9 section may be expended by school districts for the school
10 district portion of the total project cost for roof repair or
11 replacement required by Section 22-24-4.3 NMSA 1978.

12 G. In making distributions pursuant to this
13 section, the secretary [~~of public education~~] shall include such
14 reporting requirements and conditions as are required by rule
15 of the public school capital outlay council. The council shall
16 adopt such requirements and conditions as are necessary to
17 ensure that the distributions are expended in the most prudent
18 manner possible and are consistent with the original purpose as
19 specified in the authorizing resolution. Copies of reports or
20 other information received by the secretary in response to the
21 requirements and conditions shall be forwarded to the council."

22 Section 14. A new section of the Public School Code is
23 enacted to read:

24 "[NEW MATERIAL] PREVENTIVE MAINTENANCE PLANS--
25 PARTICIPATION IN FACILITY INFORMATION MANAGEMENT SYSTEM.--Each

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1 school district shall:

2 A. develop and implement a preventive maintenance
3 plan following guidelines adopted by the public school capital
4 outlay council pursuant to Section 22-24-5.3 NMSA 1978; and

5 B. participate in the facility information
6 management system pursuant to the schedule adopted by the
7 public school capital outlay council."

8 Section 15. Section 22-29-1 NMSA 1978 (being Laws 1986,
9 Chapter 94, Section 1) is amended to read:

10 "22-29-1. SHORT TITLE.--~~[This act]~~ Chapter 22, Article 29
11 NMSA 1978 may be cited as the "Public School Insurance
12 Authority Act"."

13 Section 16. A new section of the Public School Insurance
14 Authority Act is enacted to read:

15 "[NEW MATERIAL] EXPENDITURE OF INSURANCE PROCEEDS FOR
16 PUBLIC SCHOOLS.--Payment for a claim under property insurance
17 coverage for property damage to public school facilities shall
18 be paid directly to the school district. Without further
19 approval of the authority or any insurance carrier, the
20 proceeds of the insurance payment may be expended by the school
21 district to repair or replace the damaged facility if:

22 A. the school district complies with the
23 Procurement Code; and

24 B. contracts for the repair or replacement are
25 approved by the public school facilities authority pursuant to

.153346.3

underscoring material = new
[bracketed material] = delete

1 Section 22-20-1 NMSA 1978."

2 Section 17. TEMPORARY PROVISION--SHORT-TERM SUPPLEMENTAL
3 SEVERANCE TAX BONDS--PUBLIC SCHOOL CAPITAL OUTLAY.--In addition
4 to the bonds issued pursuant to Section 7-27-14 NMSA 1978 and
5 notwithstanding the prohibitions and limitations of that
6 section, in compliance with the Severance Tax Bonding Act, in
7 fiscal year 2005 the state board of finance may issue and sell
8 supplemental severance tax bonds with a term that does not
9 extend beyond the fiscal year in which they are issued in an
10 amount not exceeding seventy million dollars (\$70,000,000) when
11 the public school capital outlay council certifies by
12 resolution the need for the issuance of the bonds. The
13 proceeds from the sale of the bonds are appropriated to the
14 public school capital outlay fund for the purpose of making
15 awards of grant assistance for correcting serious roof
16 deficiencies pursuant to Section 22-24-4.1 NMSA 1978 and for
17 the roof repair and replacement initiative pursuant to Section
18 22-24-4.3 NMSA 1978; provided that no supplemental severance
19 tax bonds shall be issued pursuant to this section:

20 A. until all other severance tax bonds and
21 supplemental severance tax bonds to be issued in fiscal year
22 2005 have been issued; and

23 B. unless the balance in the severance tax bonding
24 fund as of the date that the bonds are issued is greater than
25 the sum of:

.153346.3

underscored material = new
[bracketed material] = delete

1 (1) the debt service on the supplemental
2 severance tax bonds to be issued pursuant to this section;

3 (2) the debt service scheduled to be paid
4 during the remainder of the fiscal year on all outstanding
5 severance tax bonds and supplemental severance tax bonds; and

6 (3) the amount necessary to meet all principal
7 and interest payments on outstanding bonds payable from the
8 severance tax bonding fund on the next two ensuing semiannual
9 payment dates.

10 Section 18. APPROPRIATIONS.--

11 A. Three million eight hundred thousand dollars
12 (\$3,800,000) is appropriated from the general fund to the
13 public school capital outlay fund to reimburse the fund for
14 portable classrooms purchased to implement full-day
15 kindergarten programs. The reimbursement shall be expended in
16 fiscal years 2005 through 2007 as originally intended to
17 correct remaining outstanding deficiencies pursuant to Section
18 22-24-4.1 NMSA 1978. Any unexpended or unencumbered balance
19 remaining at the end of a fiscal year shall not revert to the
20 general fund.

21 B. Five hundred seventy-five thousand dollars
22 (\$575,000) is appropriated from the general fund to the
23 department of finance and administration for expenditure in
24 fiscal years 2005 through 2007 for the purpose of developing a
25 student population forecasting model in conjunction with the

.153346.3

underscored material = new
[bracketed material] = delete

1 legislative finance committee, the public education department,
2 the legislative education study committee and the public school
3 facilities authority. Any unexpended or unencumbered balance
4 remaining at the end of fiscal year 2007 shall revert to the
5 general fund.

6 C. Two million sixty-two thousand dollars
7 (\$2,062,000) is appropriated from the general fund to the
8 public school facilities authority for expenditure in fiscal
9 years 2005 through 2007 for the purpose of developing and
10 implementing a uniform, statewide web-based facility
11 information management system pursuant to the provisions of
12 Section 22-24-5.3 NMSA 1978. Any unexpended or unencumbered
13 balance remaining at the end of fiscal year 2007 shall revert
14 to the general fund.

15 Section 19. EMERGENCY.--It is necessary for the public
16 peace, health and safety that this act take effect immediately.